

REMARKS

The present application has been reviewed in light of the Final Office Action mailed December 27, 2007. Claims 1-15 and 23-24 are currently pending in the application with claims 1 and 23 being in independent form. Claims 1, 13, 14, and 23 have been amended and no new matter is believed to be introduced by the present amendment. In view of the amendments above and the remarks to follow, reconsideration and allowance of this application are respectfully requested.

Claims 13-15 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended claims 13 and 14 to obviate the antecedent basis objections. Accordingly, in view of the amendments to claims 13 and 14, withdrawal of the rejection of claims 13-15 under 35 U.S.C. 112, second paragraph, rejections is respectfully requested.

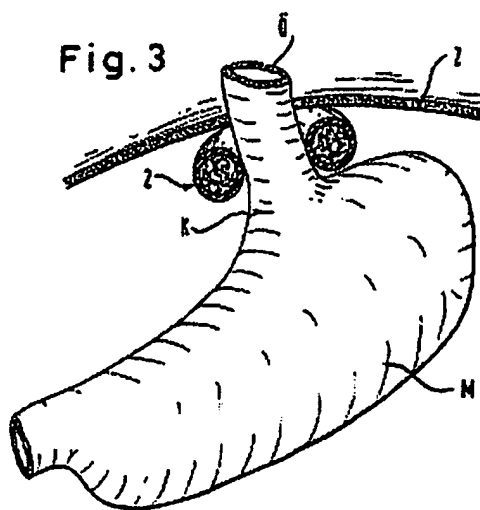
Claims 1, 3, 6-10, 12, and 13 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,796,603 to Dahlke et al. (hereinafter "Dahlke"). Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. §102(b) over Dahlke because Dahlke fails to teach each and every feature of claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection to claim 1.

According to §2131 of the MPEP, to anticipate a claim, the reference must teach every element of the claim, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Amended claim 1 recites a support structure including, *inter alia*, an annular ring configured and adapted to substantially overlies the at least one annular arrangement of staples of the staple

cartridge assembly, the annular ring defining a reservoir, and a wound closure material retained in the reservoir and releasable therefrom.

In contrast, Dahlke discloses a hose-like implant or pad hose 2 which is placed in an annular manner around the esophagus O above stomach M, as shown below in Fig. 3. Dahlke further discloses the pad hose 2 comprises a porous sheet-like material and is placed in a collar-like manner around the distal esophagus and sewn together at the overlapping ends. (See col. 3, lines 40-42 and col. 4, lines 1-4).



Dahlke discloses that the filling of the implant is penetrated by the ingrowth of tissue. Col. 2, lines 60 through 66. However, this is the opposite of dispensing material from a reservoir, as required by claim 1.

The implant hose 2 of Dahlke does not disclose or suggest an annular ring configured to substantially overlie an annular arrangement of staples, as recited in claim 1. Clearly, Dahlke does not disclose an anastomotic surgical procedure.

In fact, in direct contrast to the present disclosure, as implant hose 2 of Dahlke is placed around the esophagus of the patient and has the effect that implant hose 2 constricts the esophagus. Dahlke discloses that the implant is for the treatment of hernias and is placed around the gastro-esophageal junction. Col. 1, lines 21 through 42.

Accordingly, in view of the foregoing amendments and remarks, Applicants respectfully submit that Dahlke fails to disclose or even suggest each and every element recited in claim 1, because Dahlke does not disclose or suggest a support structure including, *inter alia*, an annular ring configured and adapted to substantially overlie the at least one annular arrangement of staples of the staple cartridge assembly, the annular ring defining a reservoir, and a wound closure material retained in the reservoir and dispensable therefrom, as recited in claim 1.

In view of the arguments presented above, Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 102(b) over Dahlke because Dahlke fails to disclose each and every element of claim 1.

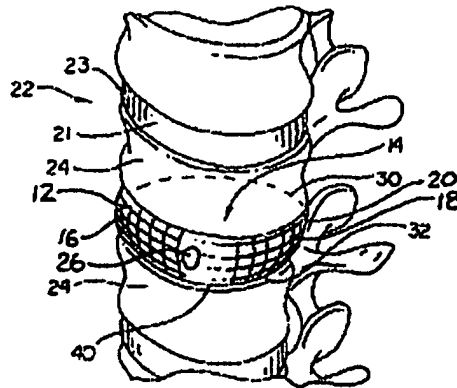
Since claims 3, 6-10, 12, and 13 depend, directly or indirectly, from independent claim 1, and contain all of the features of claim 1, for the reasons presented above regarding the patentability of claim 1, Applicants respectfully submit that claims 3, 6-10, 12, and 13 are also patentable over Dahlke.

Claims 1, 10, 11, 14, and 15 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,712,853 to Kuslich (hereinafter "Kuslich"). Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 102(e) over Kuslich because Kuslich fails to teach each and every element of independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection to claim 1.

Applicants submit that Kuslich discloses an implant 10, which includes a sidewall band 12. As shown below in Fig. 5, the band 12 is inserted into a small opening in the annulus 21 of the disc 23. Kuslich discloses that the band is filled to conform to the cavity in a disc or vertebrae. The band is filled and closed to prevent egress of material from the band. Col. 5, lines 6 through 12. Kuslich's band is provided around the vertebrae to support the vertebrae and encourage tissue ingrowth. See the Background of the Invention, cols. 1 through 4. The material of the band allows the ingrowth of blood vessels and fibrous and bony material. The material of the band is porous and has gaps that are tight enough to retain small particles of fill material. See col. 8, lines 42 through 57. The band may be partially or wholly absorbable but, when filled, the band is intended to support and stabilize the spine. Col. 9, lines 15 through 61.

Clearly, Kuslich does not disclose an anastomotic surgical procedure and, further, does not disclose an annular ring adapted to substantially overlie at least one annular arrangement of staples of the staple cartridge assembly, as recited in independent claim 1.

Fig. 5



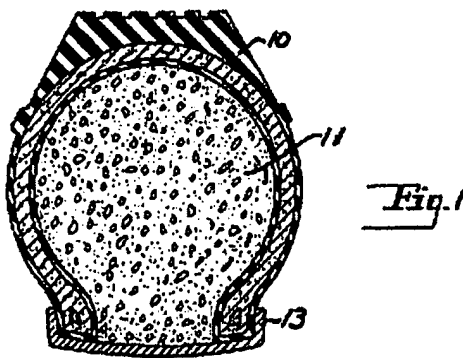
Accordingly, in view of the foregoing amendments and remarks, Applicants respectfully submit that Kuslich fails to disclose or even suggest each and every element recited in claim 1, because Kuslich does not disclose or suggest a support structure including, *inter alia*, an annular ring configured and adapted to substantially overlies the at least one annular arrangement of staples of the staple cartridge assembly, the annular ring defining a reservoir that retains a wound closure material that is releasable therefrom, as recited in claim 1.

In view of the arguments presented above, Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 102(e) over Kuslich because Kuslich fails to disclose each and every feature of claim 1.

Since claims 10, 11, 14, and 15 depend, directly or indirectly, from independent claim 1, and contain all of the features of claim 1, for the reasons presented above regarding the patentability of claim 1, Applicants respectfully submit that claims 10, 11, 14, and 15 are also patentable over Kuslich.

Claim 1 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,022,810 to Lambe (hereinafter "Lambe"). Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 102(b) over Lambe because Lambe fails to teach each and every element of independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection to claim 1.

Applicants submit that Lambe discloses a pneumatic tire 10 having a filling of intrinsically compressed resilient foam 11 mounted on a wheel rim 13, as shown in Fig. 1 below (*See* col. 4, lines 35-40). Lambe discloses a foam-filled tire that resists deflation. The foam is formed so that it cannot be released or dispensed from the tire. *See* col. 6, lines 4 through 16. Clearly, Lambe does not disclose an anastomotic surgical procedure and, further, does not disclose an annular ring adapted to substantially overlie at least one annular arrangement of staples of the staple cartridge assembly, the annular ring defining a reservoir that retains a wound closure material so that it is dispensable therefrom, as recited in claim 1.



Accordingly, in view of the foregoing amendments and remarks, Applicants respectfully submit that Lambe fails to disclose or even suggest a support structure including, *inter alia*, each and every element recited in claim 1, because Lambe does not disclose or suggest an annular ring configured and adapted to substantially overlies the at least one annular arrangement of staples of the staple cartridge assembly. Furthermore, Lambe's foam material is arranged so that it is not dispensed from the tire- to produce a tire that resists deflation.

In view of the arguments presented above, Applicants respectfully submit that claim 1 is allowable under 35 U.S.C. § 102(b) over Lambe because Lambe fails to disclose each and every feature of claim 1.

Claim 23 was rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,909,972 to Britz (hereinafter "Britz"). Applicants respectfully submit that claim 23 is allowable under 35 U.S.C. § 102(b) over Britz because Britz fails to teach each and every element of independent claim 23. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 23.

Amended independent claim 23 recites a support structure including, *inter alia*, an annular ring configured and adapted to substantially overlies the at least one annular arrangement of staples of the staple cartridge assembly, and the annular ring having at least one removable support spoke integrally connected to and extending diametrically across the inner annular wall.

Applicants submit that Britz discloses a wheel assembly 10, which includes a rim 14, spokes 12, a tube 16 around the outside of rim 12 and a tire 18, as shown in Fig. 1 below. Britz further discloses the wheel assembly 10 can be that of a bicycle, an agricultural implement, an earth working

implement, a scooter, light delivery van, motorbike or the like (*See* col. 5, lines 37-42). Clearly, Britz does not disclose an anastomotic surgical procedure and, further, does not disclose an annular ring adapted to substantially overlie at least one annular arrangement of staples of the staple cartridge assembly, as recited in independent claim 23.

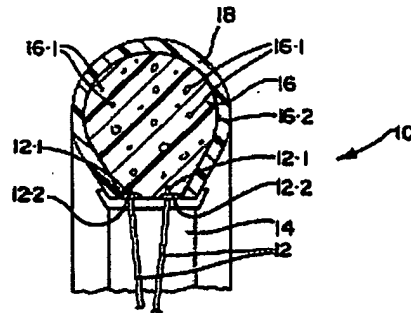


FIG 1

Accordingly, in view of the foregoing amendments and remarks, Applicants respectfully submit that Britz fails to disclose or even suggest each and every element recited in claim 1, because Britz does not disclose or suggest a support structure including, *inter alia*, an annular ring configured and adapted to substantially overlie the at least one annular arrangement of staples of the staple cartridge assembly, as recited in independent claim 23.

In view of the arguments presented above, Applicants respectfully submit that claim 23 is allowable under 35 U.S.C. § 102(b) over Britz because Britz fails to disclose each and every element of claim 23.

Claim 2 was rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlke as applied to claim 1. As discussed above, independent claim 1 is believed to be patentable. As claim 2 depends directly from claim 1, it is respectfully submitted that claim 2 is at least patentable for the reasons

independent claim 1 is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over Britz as applied to claim 1 above and in view of Lambe. As discussed above, independent claim 1 is believed to be patentable over Britz. Applicants respectfully submit that Lambe fails to cure the deficiencies of Britz and therefore fails to render claim 1 obvious under 35 U.S.C. 103(a). As such, Applicants respectfully submit that claim 1 is patentable under 35 U.S.C. 103(a) over Britz in view of Lambe.

As claim 4 depends directly from claim 1, it is respectfully submitted that claim 4 is at least patentable for the reasons independent claim 1 is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Britz as applicable to claim 1 in view of Lambe as applied to claim 4, and further in view of U.S. Patent No. 4,231,407 to James (hereinafter "James"). As discussed above, independent claim 1 is believed to be patentable over Britz. Applicants respectfully submit that Lambe and/or James, either alone or in combination with one another, fail to cure the deficiencies of Britz and therefore fail to render claim 1 obvious under 35 U.S.C. 103(a). As such, Applicants respectfully submit that claim 1 is patentable under 35 U.S.C. 103(a) over Britz in view of Lambe and further in view of James.

As claim 5 depends directly from claim 1, it is respectfully submitted that claim 5 is at least patentable for the reasons independent claim 1 is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

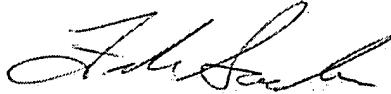
Claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Britz as applied to claim 23 in view of James. As discussed above, independent claim 23 is believed to be patentable. As claim 24 depends directly from claim 23, it is respectfully submitted that claim 24 is at least patentable for the reasons independent claim 23 is patentable. Accordingly, withdrawal of this rejection is respectfully requested.

Applicants also respectfully submit, that none of the references cited by the Office disclose an annular ring that is configured and adapted to substantially overlies an annular arrangement of surgical staples of the staple cartridge assembly, wherein the annular ring is configured to maintain a resulting anastomotic lumen in an open condition. Moreover, the references cited by the Office are non-analogous art because said references are not in the Applicants' field of endeavor and that said references are in no way reasonably pertinent to the particular usefulness with which the Applicants were concerned.

In view of the foregoing amendments and remarks, reconsideration of the application and allowance of all pending claims is earnestly solicited.

Should the Examiner believe that a telephone interview may facilitate prosecution of this application, the Examiner is respectfully requested to telephone Applicants' undersigned representative at the number indicated below.

Respectfully submitted,



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